



PATENT  
Docket No. 435712000921  
Client Ref: 033

## DECLARATION FOR UTILITY PATENT APPLICATION

AS BELOW-NAMED INVENTORS, WE HEREBY DECLARE THAT:

Our residence, post office address, and citizenship are as stated below next to our names.

We believe we are the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: DEVICES FOR MODIFICATION OF AIRWAYS BY TRANSFER OF ENERGY, the specification of which is attached hereto unless the following box is checked:

☒ was filed on November 8, 1999 as United States Application Serial No. 09/436,455.

WE HEREBY STATE THAT WE HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

We acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

We hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

Application No.	Country	Date of Filing (day/month/year)	Priority Claimed?
			<input type="checkbox"/> Yes <input type="checkbox"/> No

We hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:


Application Serial No.	Filing Date


We hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, we acknowledge the duty to disclose information which is material to


patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.


Application Serial No.	Filing Date	Status
09/349,715	07/08/99	<input type="checkbox"/> Patented <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Abandoned
09/296,040	04/21/99	<input type="checkbox"/> Patented <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Abandoned
09/095,323	06/10/98	<input type="checkbox"/> Patented <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Abandoned

We hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


17 March 2000   
Date Name: Christopher James Danek  
Residence: Santa Clara, California  
Citizenship: United States  
Post Office Address: 1370 Warburton Avenue, #8, Santa Clara, CA 95050

17 March 2000   
Date Name: Bryan Loomas  
Residence: Saratoga, California  
Citizenship: United States  
Post Office Address: 17751 McKinnon Drive, Saratoga, CA 95070

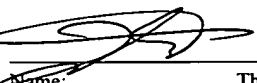
3/20/00   
Date Name: Michael Biggs  
Residence: San Francisco, California  
Citizenship: United States  
Post Office Address: 220 Corbett Avenue, San Francisco, CA 94114

3/20/00   
Date Name: Keith M. Burger  
Residence: San Francisco, California  
Citizenship: United States  
Post Office Address: 1856 Franklin Street, #2, San Francisco, CA 94109

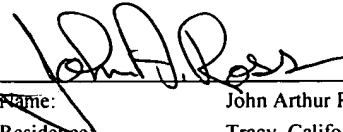
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Name: Dave Haugaard  
Residence: San Jose, California  
Citizenship: United States  
Post Office Address: 256 N. 3rd Street, #6, San Jose, CA 95112

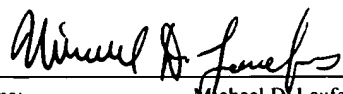
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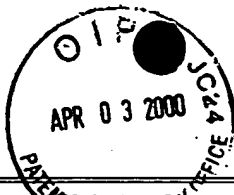
  
Name: Thomas Keast  
Residence: Mountain View, California  
Citizenship: United States  
Post Office Address: 860 Park Drive, #3, Mountain View, CA 94040

3/20/00  
Date

  
Name: John Arthur Ross  
Residence: Tracy, California  
Citizenship: United States  
Post Office Address: 23032 Joaquin Court, Tracy, CA 95376

3-14-00  
Date

  
Name: Michael D. Laufer  
Residence: Menlo Park, California  
Citizenship: United States  
Post Office Address: 1259 El Camino Real, Menlo Park, CA 94025



PTO/SB/96 (10-92)

## CERTIFICATE UNDER 37 C.F.R. § 3.73(b)

Docket No. 435712000921

In the application of: Christopher James DANEK et al.  
Serial No.: 09/436,455  
Filed: November 8, 1999  
For: DEVICES FOR MODIFICATION FOR AIRWAYS BY TRANSFER OF ENERGY

Broncus Technologies, Inc, a corporation, certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application identified above for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s) of the patent application identified above, to the current assignee as shown below:

1. From :  
To:  
The document was recorded in the Patent and Trademark Office at Reel , Frame , or for which a copy thereof is attached.
2. From :  
To:  
The document was recorded in the Patent and Trademark Office at Reel , Frame , or for which a copy thereof is attached.
3. From :  
To:  
The document was recorded in the Patent and Trademark Office at Reel , Frame , or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

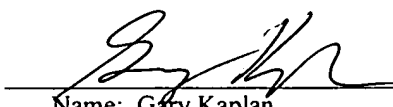
☐ Copies of assignments or other documents in the chain of title are attached.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 3/20/00

  
Name: Gary Kaplan  
Title: Vice President, Operations

ASSIGNMENT  
JOINT**COPY**

THIS ASSIGNMENT, by Christopher James Danek, Bryan Loomas, Michael Biggs, Keith M. Burger, Dave Haugaard, Thomas Keast, and John Arthur Ross (hereinafter referred to as the assignors), residing at 1370 Warburton Avenue, #8, Santa Clara, CA 95050; 17751 McKinnon Drive, Saratoga, CA 95070; 220 Corbett Avenue, San Francisco, CA 94114; 1856 Franklin Street, #2, San Francisco, 94109; 256 N. 3rd Street, #6, San Jose, CA 95112; 860 Park Drive, #3, Mountain View, CA 94040; and 23032 Joaquin Court, Tracy, CA 95376, respectively, witnesseth:

WHEREAS, said assignors have invented certain new and useful improvements in DEVICES FOR MODIFICATION OF AIRWAYS BY TRANSFER OF ENERGY, set forth in an application for Letters Patent of the United States, having an oath or declaration executed on even date herewith; bearing Serial No. 09/436,455 and filed on November 8, 1999; and

WHEREAS, Broncus Technologies, Inc., a corporation duly organized under and pursuant to the laws of California and having its principal place of business at 1400 N. Shoreline Blvd., Bldg. A, Suite 8, Mountain View, CA 94043 (hereinafter referred to as the assignee) is desirous of acquiring the entire right, title and interest in and to said inventions and said application for Letters Patent of the United States, and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereon:

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient consideration, the receipt of which is hereby acknowledged, said assignors have sold, assigned, transferred and set over, and by these presents do sell, assign, transfer and set over, unto said assignee, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned inventions, application for Letters Patent, and any and all Letters Patent or Patents in the United States of America and all foreign countries which may be granted therefor and thereon, and in and to any and all divisions, continuations and continuations-in-part of said application, or reissues or extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said assignee, for its own use and the use of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted, as fully and entirely as the same would have been held and enjoyed by the assignors, had this sale and assignment not been made.






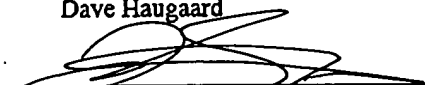
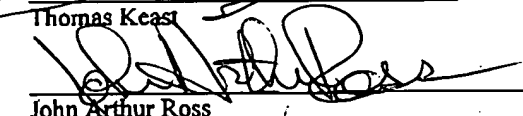
AND for the same consideration, said assignors hereby covenant and agree to and with said assignee its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignors are the sole and lawful owners of the entire right, title and interest in and to said inventions and the application for Letters Patent above-mentioned, and that the same are unencumbered and that said assignors have good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee, its successors, legal representatives and assigns, that said assignors will, whenever counsel of said assignee, or the counsel of its successors, legal representatives and assigns, shall advise that any proceeding in connection with said inventions, or said application for Letters Patent, or any proceeding in connection with Letters Patent for said inventions in any country, including interference proceedings, is lawful and desirable, or that any division, continuation or continuation-in-part of any application for Letters Patent or any reissue or extension of any Letters Patent, to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said inventions, without charge to said assignee, its successors, legal representatives and assigns, but at the cost and expense of said assignee, its successors, legal representatives and assigns. Such cost and expense shall include, but is not limited to, lost normal compensation of the respective assignor.

PAGE 1 of 2  
BP 2/11/00

Attorney Docket No.: 435712000921  
Client Ref.: 033

AND said assignors hereby request the Commissioner of Patents to issue said Letters Patent of the United States to said assignee as the assignee of said inventions and the Letters Patent to be issued thereon for the sole use of said assignee, its successors, legal representatives and assigns.

<u>14 FEB 00</u> Date	<u></u> Christopher James Danek
<u>11 FEB. 2000</u> Date	<u></u> Bryan Loomas
<u>2/14/00</u> Date	<u></u> Michael Biggs
<u>2/14/00</u> Date	<u></u> Keith M. Burger
<u>2/14/00</u> Date	<u></u> Dave Haugaard
<u>2/14/00</u> Date	<u></u> Thomas Keast
<u>2/14/00</u> Date	<u></u> John Arthur Ross

**COPY**PAGE 2 OF 2  
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ASSIGNMENT

**COPY**

THIS ASSIGNMENT, by Michael D. Laufer (hereinafter referred to as the assignor), residing at 1259 El Camino Real, #271, Menlo Park, CA 94025, witnesseseth:

WHEREAS, Christopher James Danek, Bryan Loomas, Michael Biggs, Keith M. Burger, Dave Haugaard, Thomas Keast, and John Arthur Ross, are co-inventors in a U.S. Patent Application entitled: DEVICES FOR MODIFICATION OF AIRWAYS BY TRANSFER OF ENERGY, bearing Serial No. 09/436,455 and filed on November 8, 1999, and have previously assigned their rights in the application to Broncus Technologies, Inc., and

WHEREAS, Michael D. Laufer is also a co-inventor of said application and wishes to assign his rights in the application to Broncus Technologies, Inc.; and

WHEREAS, Broncus Technologies, Inc., a corporation duly organized under and pursuant to the laws of California and having its principal place of business at 1400 N. Shoreline Blvd., Bldg. A, Suite 8, Mountain View, California 94043 (hereinafter referred to as the assignee) is desirous of acquiring the entire right, title and interest in and to said inventions and said application for Letters Patent of the United States, and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereon:

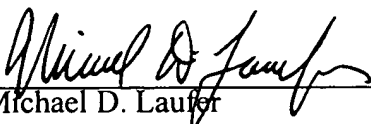
NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient consideration, the receipt of which is hereby acknowledged, said assignor has sold, assigned, transferred and set over, and by these presents does sell, assign, transfer and set over, unto said assignee, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned inventions, application for Letters Patent, and any and all Letters Patent or Patents in the United States of America and all foreign countries which may be granted therefor and thereon, and in and to any and all divisions, continuations and continuations-in-part of said application, or reissues or extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said assignee, for its own use and the use of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted, as fully and entirely as the same would have been held and enjoyed by the assignor, had this sale and assignment not been made.

AND for the same consideration, said assignor hereby covenants and agrees to and with said assignee its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignor is a lawful owner of the entire right, title, and interest in and to said inventions, and the application for Letters Patent above-mentioned, and that said assignor has not unencumbered the same, and that said assignor has good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignor hereby covenants and agrees to and with said assignee, its successors, legal representatives and assigns, that said assignor will, whenever counsel of said assignee, or the counsel of its successors, legal representatives and assigns, shall advise that any proceeding in connection with said inventions, or said application for Letters Patent, or any proceeding in connection with Letters Patent for said inventions in any country, including interference proceedings, is lawful and desirable, or that any division, continuation or continuation-in-part of any application for Letters Patent or any reissue or extension of any Letters Patent, to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said inventions, without charge to said assignee, its successors, legal representatives and assigns, but at the cost and expense of said assignee, its successors, legal representatives and assigns. Such cost and expense shall include, but is not limited to, lost normal compensation of the respective assignor.

AND said assignor hereby request the Commissioner of Patents to issue said Letters Patent of the United States to said assignee as the assignee of said inventions and the Letters Patent to be issued thereon for the sole use of said assignee, its successors, legal representatives and assigns.

3-14-00  
Date

  
Michael D. Laufer

43

Applicant/Patentee: Christopher James DANEK et al.

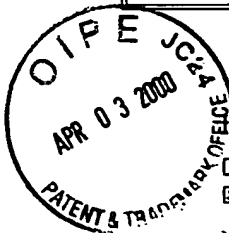
Docket No.: 435712000921

Serial No./Patent No.: 09/436,455

Client Reference: 033

Filed on/Issued : November 8, 1999

For: DEVICES FOR MODIFICATION FOR AIRWAYS BY TRANSFER OF ENERGY



**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS**  
**37 C.F.R. §§ 1.9(f) AND 1.27(c) — SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: Broncus Technologies, Inc.

ADDRESS OF CONCERN: 1400 Shoreline Blvd., Bldg. A, Suite 8, Mountain View, CA 94043

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. § 121.12, and reproduced in 37 C.F.R. § 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled DEVICES FOR MODIFICATION OF AIRWAYS BY TRANSFER OF ENERGY by inventor(s) Christopher James DANEK et al. described in

- ☐ the specification filed herewith with title as listed above.  
☒ the application identified above.  
☐ the patent identified above.

If the rights held by the above identified business concern are not exclusive, each individual, concern or organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 C.F.R. § 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 C.F.R. § 1.9(d), or a nonprofit organization under 37 C.F.R. § 1.9(e).

Each person, concern or organization having any rights in the invention is listed below:

- ☒ no such person, concern, or organization exists.  
☐ each such person, concern or organization is listed below.

NAME	ADDRESS	TYPE
		<input type="checkbox"/> Individual <input type="checkbox"/> Small Business Concern <input type="checkbox"/> Nonprofit Organization

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. § 1.27)

I acknowledge the duty to file, in this application or patent, notification or any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING:

Gary Kaplan

TITLE OF PERSON IF OTHER THAN OWNER: Vice President, Operations

ADDRESS OF PERSON SIGNING:

1400 Shoreline Blvd., Bldg. A, Suite 8, Mountain View, CA 94043

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

3/20/00